FREQUENTLY ASKED QUESTIONS

4. Tax Implications and Gift Tax Exemption

Q1: What does it mean that the tax is at 40%? Is that how much I have to pay at my death?
The current estate tax has a graduated rate, with the highest rate being 40%. If the value of your assets at death exceeds the exclusion amount, your assets will be taxed at a rate of up to 40% on the amount above the exclusion.

Q2: Will my assets be taxed at 40% if they exceed the exclusion amount?
Not exactly. Only the part of your assets that is above the exclusion amount might be taxed, and the maximum rate is up to 40%. For example, if the exclusion amount is $12.92 million and your estate is worth $15 million, only the $2.08 million above the exclusion might be taxed, not the whole $15 million.

Q3: What are the tax benefits of revocable trusts? Can you take advantage of the high exemption using a revocable trust, or do you have to do that with an irrevocable trust?
There are no estate tax benefits to using a revocable trust because, as the grantor, you still have control over your assets. However, a properly funded revocable trust can help your heirs avoid probate. For estate tax planning and taking advantage of the high exemption, an irrevocable trust may offer more benefits because it removes assets from your taxable estate.

Q4: If my joint assets with my spouse are under $15 million, is it advisable and beneficial to have a trust?
Generally, yes. A trust is one part of your estate plan, and a comprehensive estate plan will ensure that you minimize your estate tax liability, especially if the exemption amount decreases in the future. An estate planning attorney can provide the best options for your specific situation.

Q5: If we have assets in a revocable trust that are over the exemption limit, are those assets subject to the estate tax?
Yes, they are. A revocable trust does not shield assets from estate taxes since the assets are still considered part of your taxable estate. Other planning vehicles can help minimize estate tax liability, such as irrevocable trusts or strategic gifting.

Q6: Could you address the portability election for estate taxes?
The portability election allows a surviving spouse to use the unused portion of their deceased spouse's estate tax exemption. For example, if the current exemption is $12.92 million and the first spouse to die uses $6 million, the surviving spouse can add the unused $6.92 million to their own exemption, potentially sheltering up to $19.84 million from estate taxes.

Q7: How can I use gifts to reduce taxes?
You can give away money or property each year up to a certain amount (the annual gift tax exclusion) without

paying taxes on it. This reduces the size of your taxable estate, potentially lowering estate taxes when you pass away.